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OFFICE OF PETITIONS

In re Application of :
Buechler et al. : DECISION ON APPLICATION
Application No. 09/687,051 : FOR
Filed: October 12, 2000 : PATENT TERM ADJUSTMENT
Atty Docket No. 030691.0008.CON1 :
:

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705," filed April 5, 2005. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from seven hundred fifty-one (751) days to seven hundred eighty-seven (787) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is SEVEN HUNDRED EIGHTY-SEVEN (787) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 28, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 751 days. The instant application for patent term adjustment was timely¹ filed prior to payment of the Issue

¹ PALM records indicate that the Issue Fee payment was received on April 6, 2005.

Fee. Applicant disputes the reduction of 36 days of PTA for applicant delay in filing a supplemental response on September 25, 2003.

A review of the record reveals that the response filed September 25, 2003, was a response filed after the filing of an appeal brief. It is concluded that this response is not a supplemental reply within the meaning of § 1.704(c)(8). Accordingly, the reduction of 36 days should not have been entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is SEVEN HUNDRED EIGHTY-SEVEN (787) days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office will forward the file to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin A. Ferriter

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen